

OFFICE OF THE CITY MANAGER NO. LTC # 108-2013

LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: April 1, 2013

SUBJECT: Sustainability Committee Motions - Smoking Restrictions

The purpose of this Letter to Commission is to provide you with correspondence received from the Sustainability Committee regarding the above subject.

JGG/JE/RWS/ESW/MKW

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Sustainability Committee

Commissioner Jerry Libbin, Chair

Members: Lily Furst

Mitch Novick Debra Leibowitz

Luiz Rodrigues Lanette Sobel Gabriole Van Bryce TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Commissioner Jerry Libbin, Sustainability Committee Chair

DATE: March 26, 2013

SUBJECT: Sustainability Committee Motion

Dear Mayor and Honorable City Commission:

The Sustainability Committee met on March 12, 2013 and passed the two (2) motions below regarding smoking restrictions.

Motion 1: The Sustainability Committee recommends that the Commission endorse and support the current legislation before the State Legislature that, if passed, will allow municipalities to restrict smoking on outdoor municipal property including beaches, providing that a smoking area is designated.

Please find attached Senate Bill 258 (Attachment A) and House Bill 439 (Attachment B), which authorize local governments to regulate smoking on outdoor municipal or county property.

Motion 2: The Sustainability Committee further supports and recommends that the Commission embrace A Better Miami Beach, Inc.'s petition (Attachment C) to ban smoking in enclosed places of employment, specifically in nightclubs and bars.

Please find attached a copy of A Better Miami Beach's Clean Indoor Air Ordinance petition.

As an Advisory Committee, we sincerely ask that consideration be given to the above motion.

Sincerely,

The Sustainability Committee

Attachments:

A: Senate Bill 258 - Florida Clean Indoor Air Act

B: House Bill 439 – Regulation of Smoking by Municipalities and Counties

C: A Better Miami Beach, Inc. Clean Indoor Air Ordinance Petition

By the Committee on Regulated Industries; and Senators Bradley, Dean, and Hays

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A bill to be entitled

An act relating to the Florida Clean Indoor Air Act; amending s. 386.209, F.S.; authorizing municipalities and counties to restrict smoking on certain properties; providing limitations on such restrictions; authorizing a law enforcement officer to issue a citation under certain circumstances; providing a definition; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 386.209, Florida Statutes, is amended to read:

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386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject, except that:; however,

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 $\underline{(1)}$ School districts may further restrict smoking by persons on school district property.

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(2) Municipalities or counties may further restrict smoking at entrances to public indoor workplaces and outdoor areas of such workplaces, and property owned or controlled by a municipality or county, including beaches, playgrounds as defined in s. 775.215, public parks, and sports and recreation areas, provided:

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(a) The areas where smoking is restricted are identified by "No Smoking" signs that delineate the area where smoking is restricted;

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(b) Designated smoking areas are provided and identified by

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(c) Except as provided in paragraph (d), restrictions on sidewalks or other footpaths are limited to sidewalks or footpaths that are located within a beach, playground, public park, or sports and recreation area;

signs that delineate the areas where smoking is authorized;

- (d) Restricted areas at entrances to an enclosed public indoor workplace do not extend more than 75 feet from the entrance or more than 75 feet from air intakes for HVAC systems, operable windows, vents, or other openings through which smoke may enter the workplace;
- (e) The smoking restriction does not limit the ability of a person to authorize smoking to the extent not prohibited by this chapter. However, if a business is located on property owned or operated by a municipality or county, the municipality or county may require, as a condition for granting a lease, that smoking be prohibited on such property; and
- (f) A law enforcement officer, before issuing a citation for a violation of this subsection, first directs the violator to stop smoking and advises him or her of the penalties for a violation. If the person does not heed the directive, the officer must then ask the person to leave the premises. If the person refuses to leave the premises, a civil citation may be issued, punishable as provided in s. 386.208.

As used in this section, the term "public indoor workplace" means any enclosed area owned or controlled by a municipality or county which is public property used for public and governmental purposes and to which the public is invited or allowed and which includes, but is not limited to, administrative facilities,

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580-01741-13 2013258c1 educational facilities, cultural and civic centers, healthcare

Section 2. This act shall take effect July 1, 2013.

facilities, and recreational facilities.

A bill to be entitled

HB 439

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An act relating to the regulation of smoking by municipalities and counties; amending s. 386.209, F.S.; authorizing municipalities and counties to impose additional smoking restrictions on specified municipal and county property; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 386.209, Florida Statutes, is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject, except that: however,

- (1) A school district districts may further restrict smoking by persons on school district property.
- (2) A municipality may impose additional smoking restrictions on outdoor municipal property with designated smoking areas.
- (3) A county may impose additional smoking restrictions on outdoor county property with designated smoking areas.
 - Section 2. This act shall take effect July 1, 2013.



C.I.A.O. – MIAMI BEACH'S CLEAN INDOOR AIR ORDINANCE (NO SMOKING)

Dear Miami Beach City Commission -

WHEREAS, we the residents and visitors of Miami Beach, petition the Miami Beach City Commission (the "Commission") to enact an ordinance prohibiting smoking in virtually all enclosed public places and enclosed places of employment, including but not limited to bars, clubs, restaurants, recreational facilities, concert halls, auditoriums, convention facilities, government buildings and vehicles, public transportation facilities, coin laundries, public restrooms, lobbies, reception areas, hallways and other common-use areas in public buildings, apartment buildings and condominium buildings;

WHEREAS, as of January 2, 2013, there are 3,671 municipalities with laws in effect that restrict where smoking is allowed. There are 1,045 municipalities; and 36 states, along with the District of Columbia, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands; and at least 84 countries that have a 100% smokefree provision in effect in workplaces, and/or restaurants, and/or bars (information courtesy of www.no-smoke.org); and

WHEREAS, Miami Beach is a model community with a reputation for being on the cutting edge of many fronts, and the Commission should broadly recognize the hazards of tobacco and secondhand smoke by implementing local anti-smoking laws and policies for the benefit of our residents and visitors and community; and

NOW THEREFORE, we pledge our support for the Commission to enact a Clean Indoor Air Ordinance so that we can say *C.I.A.O* to smoking in enclosed public places and enclosed places of employment!

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